

## **The complaint**

Mr B has complained that Santander UK Plc acted irresponsibly when it provided him with two personal loans in May 2023 and February 2024.

## **Background**

Mr B applied for two separate personal loans with Santander in 2023 and 2024. The first loan was for £9,000 and had a term of 60 months. And the second loan was for £12,000 and also had a term of 60 months. Mr B has explained that at the time he applied for the loans he was gambling in a compulsive and problematic way. He says the loans were used to fund his gambling habit and that he was at a point where his finances were spiralling out of control when he applied for the credit. He doesn't think Santander did sufficient checks when considering whether or not the loans were affordable. He believes if proper checks had been done the bank would have realised he was gambling excessively and would have declined his applications.

Santander says that proper checks were completed for both loan applications. It said it considered Mr B's income and declared monthly outgoings, comparing these with external data and the information recorded on his credit file. Having done that it was satisfied that Mr B was properly maintaining his existing lines of credit, with no arrears or defaults showing, and had sufficient disposable income each month to cover the monthly repayments. So it felt both loans were affordable and that it hadn't made an error when it approved the applications. It did accept Mr B was gambling heavily at the time but said that it was unaware of this when he applied for the credit and that Mr B's gambling wasn't resulting in financial difficulties so even if it had been aware it wouldn't have prevented it from approving the loans. So it didn't uphold Mr B's complaint.

Unhappy with Santander's response Mr B brought his complaint to this service. One of our investigators looked into it already. He found that the checks completed in May 2023, when Mr B applied for the first loan, were likely sufficient. However, he felt that when Mr B came back nine months later for the second loan there had been a significant change in his debt profile and that Santander should have asked more questions before approving the application. If that had happened he believed Santander would have realised Mr B was gambling in a harmful way and wouldn't have approved the application. So, he upheld Mr B's complaint in relation to the second loan.

Mr B accepted the investigator's findings, but Santander didn't. It repeated that it had done sufficient checks and that there was nothing on Mr B's credit file to indicate he may be financially vulnerable and that the second loan looked to be affordable. As Santander didn't agree with the investigator's assessment it asked for an ombudsman to review the complaint again and so it's been passed to me for consideration.

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so I agree with the findings of our investigator and for much the same reasons. As both Mr B and Santander accepted the investigator's findings in relation to the first loan I will only comment on the lending decision involving second loan, which is the one still in dispute.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance, and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, the total cost of the credit and what it knew about the consumer at the time of application.

When Mr B applied for the second loan in February 2024 his declared monthly income was £3,220 per calendar month and his declared outgoing were £2,000 per calendar month. Santander has said that it compared this with information it had gathered from Office of National Statistics ("ONS") data and increased Mr B's outgoings to £2,956 as it felt this was likely closer to his actual expenses at the time. It also reviewed his credit file which showed that all of his existing credit repayments on other accounts were in good order and up to date. So, it didn't think it was necessary to do additional checks as it felt the information it had gathered indicate it was low risk to lend to Mr B and that the repayments would be affordable for him.

However, our investigator noted that in the nine months in between Mr B applying for the first loan in May 2023 and requesting the second loan in February 2024 Mr B's overall indebtedness had increased by over £14,500. And the terms of the previous loan and this loan were quite long, both running for 60 months. So he felt it would have been pertinent for Santander to consider why Mr B was applying for access to additional credit in such a short space of time and whether or not there were any sustainability concerns about the speed at which he was applying for credit.

When businesses decide its necessary to run additional checks, on top of the basic income and expenditure form and credit reference checks, there are a variety of things they can ask for. And while there is no obligation on lenders to specifically request to see bank statements, they often review these as they provide quick and easy insight into how someone is managing their money each month. Looking at Mr B's bank statements it is clear that by the time he applied for the second loan in February 2024, his gambling was showing signs of being compulsive and excessive in nature.

In the three months leading up the second application Mr B explains he was gambling through his account and taking out large amounts of cash to gamble in casinos. And this is corroborated by the information in his statements. Looking at November 2023, Mr B spent approximately £3,000 on gambling or undisclosed activities, in December he spent £2,200 on similar sites and in January 2024 Mr B spend £8,000 on gambling sites and payments to other undisclosed activities. So, it does appear that Mr B was spending well beyond his means and that the disposable income Santander had calculated was available to him likely wasn't. Which means I think Santander should have been concerned about the sustainability of a second five-year loan, when Mr B was spending, on average, more than his monthly salary each month, on gambling and other undisclosed activities.

Santander has pointed out that at times Mr B was winning sizeable amounts of money through his gambling activity and that he also appeared to have some savings at the time he could have relied on. However, while I agree Mr B did have some success, I don't think Santander can rely on that to show the gambling wasn't causing him problems.

Unfortunately, when people are gambling compulsively, as Mr B was, the only guarantee is the spend on gambling, not any winnings. And so, I don't think it would be appropriate to consider any winnings Mr B may have received as a form of income or evidence to support a lending decision. Likewise, while Mr B did have savings he explained he was regularly depositing these into his account to gamble with until they were all spent. And given he was actively trying to source credit from different lenders I agree it seems unlikely Santander could rely on the fact he had some savings to support the risk assessment on the loans as the savings were rapidly depleting.

All of which means I think that there were indicators when Mr B applied for the second loan in February 2024 that he was starting to become reliant on credit. And that Santander should have done more thorough checks to assure itself that the lending would be sustainable as well as affordable. If it had done that I think it would have seen that Mr B's spending was erratic and that he was showing signs of someone who was gambling compulsively. And I don't think it would have approved the loan. So I'm upholding his complaint in regard to the second loan in February 2024.

I've also considered whether Santander acted unfairly or unreasonably in some other way, including whether its relationship with Mr B might have been viewed as unfair by a court under s.140A Consumer Credit Act 1974. However, I've not seen anything that makes me think this was likely to have been the case.

### **Putting things right**

As mentioned above, I'm only upholding Mr B's complaint in regard to the second loan and not the first loan. Therefore, in order to put things right Santander UK Plc should:

- Rework the second loan account removing all interest, fees, charges, and insurances (not already refunded) that have been applied.
- If the rework results in a credit balance, this should be refunded to Mr B along with 8% simple interest per year\* calculated from the date of each overpayment to the date of settlement. Santander should also remove all adverse information regarding this account from Mr B's credit file for the second loan.
- Or, if after the rework there is still an outstanding balance, Santander should arrange an affordable repayment plan with Mr B for the remaining amount. Once Mr B has cleared the balance, any adverse information in relation to the second loan account should be removed from his credit file.

\*HM Revenue & Customs requires Santander to deduct tax from any award of interest. It must give Mr B a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

### **My final decision**

For the reasons set out above I partially uphold Mr B's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 30 December 2024.

Karen Hanlon  
**Ombudsman**